

## 5.5 REMEDIAL PROGRAMS AND OFFSET

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While restrictions on new development in the Lake Tahoe Basin (see the “Development Restrictions” section of this Chapter) will prevent or mitigate new adverse water quality impacts from such development, the water quality impacts of current watershed disturbance will continue to be felt for years to come unless remedial projects are implemented to offset their impacts. In 1980, the State Board adopted prohibitions against discharges or threatened discharges from new development which is not offset by remedial work, and directed the Lahontan Regional Board to adopt an offset policy or approve such a policy if adopted by another agency.

The 1980 *Lake Tahoe Basin Water Quality Plan* included a priority list of remedial erosion control projects, which was subsequently replaced by the TRPA “Capital Improvements Program” priority list (208 Plan, Vol. IV). The 1988 revisions to the 208 Plan also added a remedial Stream Environment Zone Restoration Program (208 Plan, Vol. III, discussed in the section of this Chapter on SEZ protection). A variety of other TRPA programs function to offset the impacts of past development, including excess coverage mitigation, transfer of development rights, and requirements for remedial work as a condition of approval of permits for new or remodeled development. More information on the rationale for current remedial project priorities is available in the *Lake Tahoe Basin Water Quality Plan* (as amended through 1989) and the 208 Plan.

### **Offset Policy**

The 1980 *Lake Tahoe Basin Water Quality Plan* called for phasing of new development in accordance with the accomplishment of remedial erosion control work in order to offset the adverse impacts of previous development. The plan directed the Lahontan Regional Board to review progress toward the adoption of an offset policy by regional land use agencies, and to adopt its own policy if necessary. The plan set forth specific criteria for an offset policy, related to its priority list for public remedial projects and to payment of fees or performance of remedial work by private land owners.

In 1982, the Regional Board approved the Tahoe

Regional Planning Agency's water quality mitigation fee system as an offset policy. (See Resolution 82-4 in Appendix B). This fee system has since been revised. This Basin Plan considers the entire TRPA offset program described below to fulfill the 1980 direction for an offset policy. Substantial modifications to this offset program are subject to Regional Board review.

The current 208 Plan and TRPA regional land use plan provide for offset and for phasing of development in relation to offset, in several ways:

- Chapter 82 of the TRPA Code of Ordinances requires that “all projects and activities which result in the creation of additional impervious surface coverage shall offset 150 percent of the potential water quality impacts of the project” through performance of offsite water quality control projects and/or payment of water quality mitigation fees. Exemptions from this requirement are provided under limited circumstances.
- Chapter 20 of the TRPA Code of Ordinances includes an excess coverage mitigation program to reduce the impacts of existing excess land coverage by requiring onsite or offsite retirement or restoration of coverage in connection with project approvals on such sites.
- Development beyond the limits established in the 1987 Regional Plan litigation settlement will require findings regarding progress toward the attainment of environmental standards, which will include evaluation of the adequacy of remedial work.
- Lowering the Individual Parcel Evaluation System line to permit single family home development on more sensitive parcels will also require findings regarding progress on remedial projects.
- The TRPA plans provide incentives, such as additional building height, or a limited increase in the IPES score, for the performance of additional remedial work by landowners.
- TRPA requires retrofit of BMPs to all existing development over the 20-year lifetime of the 208 Plan, and enforces this requirement primarily through its permitting process for remodeling projects. See the discussion of the Regional Board's BMP retrofit program, below.

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### **Remedial Projects**

The remedial erosion and urban runoff control projects implemented in the Lake Tahoe Basin are large scale measures to control runoff and erosion from past development, especially street and highway construction. These projects involve source controls for erosion and surface runoff problems on public lands, and include implementation of BMPs.

The 208 Plan relies heavily upon the implementation of watershed improvements to reduce sediment and nutrient loads from the watershed of Lake Tahoe and to improve water quality in the region. Because it involves projects affecting public rights-of-way, the Capital Improvements Program (CIP) is discussed in greater detail in the section of this Chapter on roads and rights-of-way. The SEZ Restoration Program is discussed in the section on Stream Environment Zones. The cost of these improvements, which are described in Volumes III and IV of the plan, is high (over \$300 million in 1988 dollars). To achieve the most cost effective and timely improvements in water quality, it is necessary to set priorities among the many watershed improvement projects.

The CIP attaches a high priority for erosion and runoff control to projects which affect SEZs, particularly wetland and riparian areas; which reduce or repair disturbance of seasonally-saturated variable source areas; and which attempt to restore a more natural hydrologic response in the watershed by infiltrating runoff and reducing drainage density, especially in areas near tributary streams. Full program implementation can only be accomplished through effective interagency communications, cooperation, and flexibility. TRPA will work with the various implementation agencies to incorporate the 208 priority guidance into their long-range programs and to evaluate their programs at regular five-year intervals.

The U.S. Forest Service implements remedial erosion control and SEZ restoration projects on National Forest lands in the Lake Tahoe Basin as part of its ongoing watershed restoration program.

The California Tahoe Conservancy provides grant funding for remedial projects carried out by other agencies, and implements remedial projects on some of the lands which it has acquired (see the discussion

of land acquisition in the section of this Chapter on development restrictions).

Local governments will have incentives to carry out remedial projects in that future development in their jurisdictions will be phased depending upon progress under the CIP.

### **BMP Retrofit**

The retrofit of BMPs is mandatory for all existing development in the Lake Tahoe Basin. Retrofit of BMPs to existing facilities is addressed under municipal and industrial stormwater NPDES permits (see the discussions of these permits in the sections of this Chapter and Chapter 4 on stormwater). The Regional Board may also require BMP retrofit through waste discharge requirements, NPDES permits, and enforcement actions. The Board evaluates the need for retrofit based on factors contributing to a facility's threat to water quality, including proximity to surface water, depth to ground water, Bailey land capability classification, potential pollutants or nutrients used or stored on the site, and "housekeeping practices" for control of litter, liquid and solid wastes, and past spills. The number and severity of factors involved determine a facility's threat to water quality.

The Regional Board's strategy for obtaining retrofit of BMPs includes the following priority groups of facilities (industrial facilities regulated under the statewide industrial stormwater NPDES permit program are not included):

**Priority Group 1** includes facilities with the most significant potential for sediment, nutrient, or pollutant loadings to Lake Tahoe, such as large parking lots, commercial stables and grazing operations, automobile service stations and repair shops, and facilities where machinery or materials are stored or used outdoors (e.g., cement and asphalt plants).

**Priority Group 2** includes facilities such as mobile home parks, disposal areas for snow from roadways, and parking lots greater than 50 spaces, which have relatively lower potential for sediment, nutrient, or pollutant loading.

**Priority Group 3** includes facilities such as

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campgrounds, carpet and steam cleaner operations, and large turf areas, and pollutants such as greywater, pesticides, and fertilizer use in addition to the categories above.

Specific facilities within each category will be regulated based on threat to water quality from pollutant/nutrient loadings and water quality factors. The priority for a specific facility within Group 2 or 3 may change if a water quality problem is discovered.

Ongoing waste discharge requirements may be maintained for facilities which present an ongoing threat even after BMPs are installed (e.g., golf courses and marinas; see the separate discussions of these facilities later in this Chapter). Waste discharge requirements for facilities which no longer threaten water quality after the installation of BMPs may be rescinded.

### ***Excess Coverage Mitigation***

The 208 Plan (Vol. I, page 111) requires that, when projects are approved for modification or rehabilitation of facilities on parcels with existing coverage in excess of the Bailey coefficients ("excess coverage"), a land coverage mitigation program shall provide for the reduction of coverage in an amount proportional to the cost of the project and the extent of excess coverage. To accomplish these reductions, property owners may:

- reduce coverage onsite,
- reduce coverage offsite within the same hydrologically related area (Figure 5.4-1),
- in lieu of coverage reduction, pay an excess coverage mitigation fee to a land bank established to accomplish coverage reductions,
- consolidate lots or adjust lot lines, or
- implement any combination of the measures above.

These programs are expected to achieve significant reductions in existing coverage. TRPA's plans set forth procedures for establishing the excess coverage mitigation fee schedule, and require that it shall (1) provide a reasonable level of funding for the land bank, (2) not unduly restrict or deter property

owners from undertaking rehabilitation projects, and (3) carry out an effective coverage reduction program.

### ***Transfer of Development***

To provide both TRPA and property owners with more flexibility to plan new development and at the same time, mitigate existing land use and water quality problems, TRPA encourages consolidation of development through transfer of existing development, including a transfer of land coverage program (208 Plan, Vol. I, page 126).

**Transfers of residential development rights** are permitted from vacant parcels to parcels eligible for residential or multiresidential development. Each parcel is assigned one development right, which in conjunction with a residential allocation, is required by TRPA for construction of a residential unit. Multi-residential development thus requires the transfer of development rights unless bonus units are granted in relation to public benefits provided by the project, including the benefits from water quality improvements. Upon transfer of a development right, sensitive parcels are not eligible for future residential development. Nonsensitive parcels are restricted from residential development unless a development right transfer back to the parcel is permitted.

**Transfers of "units of use"** (tourist accommodation units, residential units, and commercial floor area) are also permitted when the structures on the donor sites are removed or modified to eliminate the transferred units. Bonus units may be granted for transferred tourist units, based on public benefits, including water quality benefits. Upon transfer of units of use, sensitive parcels are permanently restricted from receiving new development, and are restored and maintained in a natural state, insofar as is possible.

**Transfers of residential allocations** are permitted from parcels located on sensitive lands to more suitable parcels. (An allocation, in addition to a residential development right, is required before any person can commence construction of an additional residential unit, except for affordable housing units as defined in the TRPA Code. TRPA shall permit the transfer of allocations from parcels in SEZs, land capability districts 1, 2, and 3, lands determined to be sensitive under the IPES, or shorezone capability districts 1 through 4, to parcels outside these areas.

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When an allocation is transferred, the entire donor parcel shall be permanently retired, and the transfer shall be approved by the affected local government jurisdictions.

**Transfers of Land Coverage** are discussed earlier in this Chapter in the section on land capability and coverage limits.